IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9965 of 2001

Between:

A. Prashant Kumar Reddy, S/o Rajababu Reddy
R/o Bhaktavatsalanagar, Nellore Town

..... PETITIONER

AND

1. The Superintendent of Police,
   Nellore.
2. The Station House Officer, V Town Police Station,
   Nellore,
3. Kadiveti Sampoornamma, W/o late Penchal Reddy
   R/o Althurthy, Podalakuru Mandal,
   Nellore District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, writ or direction more particularly a Writ of Mandamus Under Article 226 of Constitution of India, declaring the action of the Respondents 1 & 2 in threatening the petitioner to make the payments of amounts due under the promissory notes to the 3rd Respondent herein and her family members and in further the action of the Respondents 1 & 2 in threatening the petitioner to arrest him if he fails to comply with their directions as illegal, arbitrary, without jurisdiction and offends under Article 21 of Constitution of India and consequently direct the Respondents 1 & 2 not to interfere in civil matters and not to harass the petitioner in any manner whatsoever.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondents 1 and 2: GP FOR HOME

The Court made the following :

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ORDER:

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The petitioner is a resident of Bhaktavatsalanagar, Nellore Town. He filed the present writ petition seeking a declaration that the action of respondent Nos.1 and 2 in compelling the petitioner to pay the amounts under pro-notes to the third respondent as illegal and arbitrary.

This Court while admitting the writ petition passed interim orders directing respondent Nos.1 and 2 not to interfere in the civil disputes.

Though the writ petition was admitted on 16.05.2001, counter affidavit is not filed. Be that as it is, however, as held by this Court in **S.Masthan Saheb v. P.S.R. Anjaneyulu** after referring to the entire case law on the subject held as under.

> "The various provisions to which a brief reference is made would show that the power of the police to collect intelligence regarding any design to commit cognizable offences and prevent commission of cognizable offences is considered to be the inherent power of the police organization. Whether or not there is a special enactment, the police are expected to perform its functions; namely, maintenance of peace and public order and prevention of cognizable offences. When all these statutes dealing with police in Andhra Pradesh deal with duty of the police relating to cognizable offences, a Police Officer would not be justified in saying that he/she is looking into a complaint made by a person which has, *ex facie*, trappings of the civil dispute. Indeed, under sub-section (1) of Section 154 of Cr.P.C, it shall be within the power and duty of the Police Officer to register only a cognizable offence. Though under Section 155 of Cr.P.C. a Police Officer can make an entry in the appropriate register about the information as to non-cognizable offence, such Police Officer shall not investigate a non-cognizable offence without the order of the Magistrate. As a necessary corollary, it must be concluded that any effort on the part of the police "to look into' any complaint by any person which does not contain allegations of commission of cognizable offences would not only violate the various provisions of the Andhra Act, as in this case, but also would violate Section 155 (2) of the Cr.P.C. Any such action would be *ex facie* illegal, whatever be the *ipsi dixit* of the police. There is no presumption in law that every rift in

human relations would lead to a civil dispute and civil dispute would likely to result in clashes, resulting in offences against human body. Any such effort on the part of the police to look into the complaints regarding civil disputes is not even the part of the Code of Conduct of the Police, which was communicated by the Government of India in 1987…"

In view of the above, the writ petition is disposed of. No costs.

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(V.V.S.RAO, J)

21.06.2005

vs

To

1. The Superintendent of Police,
   Nellore.
2. The Station House Officer, V Town Police Station,
   Nellore,
3. The Governemnt Pleader for Home, High Court Buildings, High Court

of A.P, Hyderabad (O.U.T)

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